

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

ROSALIND SMITH,

Plaintiff(s),

No. C 11-3425 PJH

v.

**ORDER OF DISMISSAL**

CAPITAL ONE FINANCIAL  
CORPORATION, et al.,

Defendant(s).

This case was reported as settled by docket entry # 122 on November 28, 2012 following a settlement conference before Magistrate Judge Westmore. When the dispositive motions deadline passed without dispositive motions or final dismissal papers being filed, this court scheduled a case management conference for March 14, 2013. The court has now reviewed the joint case management statement as well as the various requests of certain out of state defendants to appear telephonically. It appears from the papers that the settlement is final and that at least two of the four defendants have already tendered full performance, although the defendants have experienced some difficulty maintaining contact with the pro se plaintiff, Ms. Smith, in order to complete the settlement documents and file a stipulated dismissal. Plaintiff did not file a case management statement as required and has reported to Magistrate Judge Westmore's clerk that she does not intend to attend the case management conference.

Accordingly, the defendants having advised the court that they have agreed to a settlement of this cause and two defendants having already tendered full performance of the agreement, IT IS HEREBY ORDERED that this cause of action is dismissed **without** prejudice; provided, however that if any party hereto shall certify to this court, within sixty

1 days, with proof of service thereof on the opposing parties, that the agreed consideration  
2 for said settlement has not been delivered over, the foregoing order shall stand vacated  
3 and this cause shall forthwith be restored to the calendar to be set for trial.

4 If no certification is filed, after passage of sixty days, the dismissal shall be **with**  
5 prejudice. The parties may substitute a dismissal with prejudice at any time during this  
6 sixty day period.

7 This dismissal applies to remaining defendants, Equifax Information Services LLC,  
8 Experian Information Solutions, Inc. (incorrectly identified as Experian Consumer Credit  
9 Bureau and Experian Information Systems), Midland Credit Management, Inc., and Trans  
10 Union LLC (incorrectly identified as Transunion Consumer Credit Bureau and Transunion  
11 Corp.).

12 The March 14, 2013 date for case management conference is VACATED. The Clerk  
13 shall close the file.

14 IT IS SO ORDERED.

15 Dated: March 12, 2013

  
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PHYLLIS J. HAMILTON  
United States District Judge